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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STANDARD FABRICS
INTERNATIONAL, INC., a California
Corporation,

Plaintiff,

v.

JUST ONE, LLC, individually and d/b/a
“Moonstruck,” a New York Limited
Liability Company; TILLY’S, INC., a
Delaware Corporation; and DOES 1
through 10,

Defendants.

Case No.:

PLAINTIFF’S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

Plaintiff STANDARD FABRICS INTERNATIONAL, INC. (hereinafter
“STANDARD”), by and through its undersigned attorneys, hereby prays to this
honorable Court for relief based on the following:

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JURISDICTION AND VENUE

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2 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
3 *et seq.*

4 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
5 1338 (a) and (b).

6 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
7 1400(a) in that this is the judicial district in which a substantial part of the acts and
8 omissions giving rise to the claims occurred.

9 **PARTIES**

10 1. Plaintiff STANDARD FABRICS INTERNATIONAL, INC.
11 (“STANDARD”) is a corporation organized and existing under the laws of the State
12 of California with its principal place of business located in Los Angeles County.

13 2. Plaintiff is informed and believes and thereon alleges that Defendant JUST
14 ONE, LLC, individually and doing business as “MOONSTRUCK” (collectively
15 “JUST”), is a limited liability company organized and existing under the laws of the
16 State of New York with its principal place of business located at 1450 Broadway,
17 Floor 21, New York, New York 10018, and is doing business in and with the State of
18 California.

19 3. Plaintiff is informed and believes and thereon alleges that Defendant
20 TILLY’S, INC. (“TILLY’S”) is a corporation organized and existing under the laws
21 of the State of Delaware with its principal place of business located at 10 Whatney,
22 Irvine, California 92618, and is doing business in and with the State of California.

23 4. Defendants DOES 1 through 10, inclusive, are other parties not yet
24 identified who have infringed Plaintiff’s copyrights, have contributed to the
25 infringement of Plaintiff’s copyrights, or have engaged in one or more of the
26 wrongful practices alleged herein. The true names, whether corporate, individual or
27 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
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1 which therefore sues said Defendants by such fictitious names, and will seek leave to
2 amend this Complaint to show their true names and capacities when same have been
3 ascertained.

4 5. Plaintiff is informed and believes and thereon alleges that at all times
5 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
6 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
7 at all times acting within the scope of such agency, affiliation, alter-ego relationship
8 and/or employment; and actively participated in or subsequently ratified and
9 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
10 all the facts and circumstances, including, but not limited to, full knowledge of each
11 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
12 caused thereby.

13 **CLAIM RELATED TO DESIGN 6450**

14 6. Prior to the conduct complained of herein, Plaintiff composed an original
15 two-dimensional artwork for purposes of textile printing, which is set forth herein
16 below. It allocated this artwork Plaintiff's internal design number "6450"
17 (hereinafter "Subject Design"). This artwork was a creation of Plaintiff and/or
18 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by
19 Plaintiff.

20 7. Plaintiff applied for and received a United States Copyright Registration
21 for the Subject Design, the registration was granted Registration No. VAu 1-087-
22 315, with an effective date of December 30, 2011.

23 8. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
24 bearing the Subject Design to numerous parties in the fashion and apparel industries.

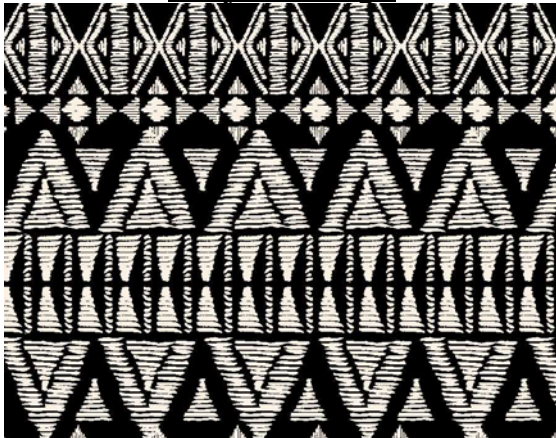
25 9. Plaintiff is informed and believes and thereon alleges that, following this
26 distribution of fabric bearing the Subject Design, JUST, TILLY'S, and certain DOE
27 Defendants created, sold, manufactured, caused to be manufactured, imported and/or
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distributed fabric and/or garments comprised of fabric bearing an unauthorized reproduction of the Subject Design (“Infringing Product”). Such Infringing Product A includes but is not limited to garments sold to the public by TILLY’S under SKU 24897358103 and bearing the label “MOONSTRUCK” and RN 124027, indicating it was manufactured by or for JUST.

10. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff’s rights and/or in blatant disregard for Plaintiff’s rights, such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious, subjecting Defendants, and each of them, to liability for statutory damages under Section 504(c)(2) of the Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per infringement.

11. A comparison of Subject Design (left) and a non-exclusive exemplar of Infringing Product (right) is set forth below; it is apparent that the elements, composition, colors, arrangement, layout, and appearance of the designs are substantially similar:

Subject Design



Infringing Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

12. Plaintiff repeats, realleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments manufactured and sold to the public bearing fabric lawfully printed with the Subject Design by Plaintiff for its customers.

14. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s) has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailer, which garments infringed the Subject Design in that said garments were composed of fabric which featured unauthorized print design(s) that were identical or substantially similar to the Subject Design, or were an illegal derivation or modification thereof.

15. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making, and/or developing directly infringing and/or derivative works from the Subject Design and by producing, distributing and/or selling garments which infringe the Subject Design through a nationwide network of retail stores, catalogues, and through on-line websites.

1 22. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, are vicariously liable for the infringement alleged herein because they
3 had the right and ability to supervise the infringing conduct and because they had a
4 direct financial interest in the infringing conduct.

5 23. By reason of the Defendants', and each of their, acts of contributory and
6 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
7 suffer substantial damages to its business in an amount to be established at trial, as
8 well as additional general and special damages in an amount to be established at
9 trial.

10 24. Due to Defendants', and each of their, acts of copyright infringement as
11 alleged herein, Defendants, and each of them, have obtained direct and indirect
12 profits they would not otherwise have realized but for their infringement of the
13 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
14 directly and indirectly attributable to Defendants' infringement of the Subject
15 Design, in an amount to be established at trial.

16 25. Plaintiff is informed and believes and thereon alleges that Defendants, and
17 each of them, have committed acts of copyright infringement, as alleged above,
18 which were willful, intentional and malicious, which further subjects Defendants,
19 and each of them, to liability for statutory damages under Section 504(c)(2) of the
20 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
21 infringement. Within the time permitted by law, Plaintiff will make its election
22 between actual damages and statutory damages.

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PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants

With Respect to Each Claim for Relief

- a. That Defendants, their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by the Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 *et seq.*;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

Dated: June 29, 2017

By: /s/ Scott A. Burroughs
Scott A. Burroughs, Esq.
Trevor W. Barrett, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff